

Subject: [TRAV-NET] Homelessness/Cultural aversion

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Some people have been pressing me to explain what the Court said in *Price*. To my mind, these are the most salient paragraphs (although the whole transcript needs reading really.)

The Queen on the application of Margaret Price v Carmarthenshire County Council

High Court of Justice,

Queen's Bench Division,

Administrative Court

Before Mr. Justice Newman

24th January 2003...

para 18 "In some respects the Defendant [Council's] approach could be described as diagnostic: as though it was required to determine the existence or non-existence of a faxed condition. Article 8 of the European Convention on Human Rights and Fundamental Freedoms requires respect to be given for private life, family life and home. 'Respect' means more than 'acknowledge' or 'take into account'; it implies some positive obligations on the part of the public authority (see Campbell v the UK [1982] 4 EHRR 293' Valsimis v Greece [1996] 24 EHRR 294).) In Burton v the UK [1996 EWHRR 134 @ 135 para 2) the Commission rejected a complaint by a Romany Gypsy who had lived for many years in the traditional culture [ie caravans] then moved to council accommodation [ie a house] for a number of years but when diagnosed as suffering

with terminal cancer, desired to live out the last of her days and to die in a caravan. The Commission stated:

"however the Commission does not consider that Article 8 can be interpreted in such a way as to extend a positive obligation to provide alternative accommodation of an applicant's choosing. It recalls that the council has made efforts to investigate the availability of alternative possibilities...it offered alternative accommodation [another house]."

19 "In order to meet the requirement to accord respect, something more than 'taking account' of an applicant's Gypsy culture is required. As the [European] Court [of Human Rights] stated in Chapman v the UK respect includes the positive obligation to act so as to facilitate the Gypsy way of life without being under a duty to guarantee it to an applicant in any particular case."

20 "The error in the approach of the Defendant in seeking to respect her Gypsy way of life was to regard the fact that she had evinced a preparedness to give it up to live in conventional housing in 2001 as sufficient reason for disregarding it altogether when considering her wishes [in 2002]. Equally, had it reached the conclusion that the Claimant's cultural aversion to traditional life was so powerful as to present great difficulty in her living in conventional housing, it was not bound by a duty to find her a pitch, but it would have been a significant factor in considering how far it should go to facilitate her traditional way of life."

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